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Filing date: **10/31/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212653
Party	Plaintiff Nautica Apparel, Inc.
Correspondence Address	STEPHEN L BAKER BAKER AND RANNELLS PA 575 ROUTE 28 RARITAN, NJ 08869 UNITED STATES officeactions@br-tmlaw.com, s.baker@br-tmlaw.com,p.chang@br-tmlaw.com,k.worosila@br-tmlaw.com,k.hnasko@br-tmlaw.com,Margaret_Bizzari@vfc.com
Submission	Motion to Compel Discovery
Filer's Name	Pei-Lun Chang
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Signature	/Pei-Lun Chang/
Date	10/31/2014
Attachments	Motion 10.31.2014.pdf(1816705 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
NAUTICA APPAREL, INC., : Opposition No.: 91212653
: :
Opposer, : :
v. : :
MAJESTIQUE CORPORATION, : :
: :
Applicant. : Mark: 
: Ser. No. 85883577
-----X

OPPOSER'S MOTION TO COMPEL RESPONSES TO DISCOVERY

Nautica Apparel, Inc. ("Opposer") by and through the undersigned and pursuant to *FRCP 34* and *TBMP 409* moves for an order compelling Majestique Corporation ("Applicant"), to respond to Opposer's interrogatories and document requests and to produce the documents requested by Nautica.

Background

As set forth in the attached *Exhibit A*, Declaration of Neil B. Friedman (*See attached Exhibit A*) (hereinafter, "Decl. Friedman"), and pursuant to the Board's order dated April 16, 2014, Opposer served upon Applicant its Initial Disclosures, Requests for Admission, First Set of Interrogatories and First Set of Document Requests on April 17, 2014. *See* Decl. Friedman at ¶ 3. Applicant's responses to the foregoing discovery demands were due on May 22, 2014. Having received no response from Applicant, on May 28, 2014, Opposer through its attorney, Neil B. Friedman, sent a letter to Applicant, requesting its responses. *See id.* at ¶ 5. Applicant replied by sending a letter dated June 4, 2014, stating that it had answered Opposer's First Set of Interrogatories and First Set of

Document Requests on February 20, 2014. *See* Decl. Friedman at ¶6. Applicant completely ignored the Board's Ordered dated April 14, 2014, which stated the following:

"Inasmuch as the Board had suspended proceedings with respect to all matters not relevant to opposer's then-pending motion to strike, it was procedurally improper for the parties to proceed with discovery. Moreover, discovery had not yet opened at the time the Board suspended proceedings. Thus, the parties were obligated to wait until such time as the Board resumed proceedings and reset deadlines before serving initial disclosures and discovery."

The Board further stated that "[T]he parties may re-serve discovery, as appropriate and must do so in accordance with Trademark Rule 2.120." Applicant failed to respond to Opposer's discovery and Applicant did not seek to enter into a stipulation regarding its prior responses.

On June 18, 2014, Opposer sent another letter to Applicant in a good faith effort to resolve the matter. *See* Decl. Friedman at ¶7. In that letter, Opposer advised Applicant that the Board's April 16, 2014 order (*See Document No. 13*), effectively rendered all discovery that was previously served moot. Therefore, Applicant must re-serve its responses. Opposer further cautioned Applicant not to re-serve the same responses previously served and disputed by Opposer. *See* Decl. Friedman at ¶7, Ex. II. Applicant ignored the same.

On July 7, 2014, nearly 45 days after the same were due and without having requested additional time, the Applicant served its responses to Opposer's First set of Interrogatories and Document Requests, re-serving its prior responses verbatim. *See* Decl. Friedman at ¶ 8.

As a good faith effort to avoid a discovery dispute, on July 22, 2014, Opposer sent another letter to Applicant's counsel. *See* Decl. Friedman at ¶9. In that letter, Opposer

reemphasized the deficiencies of Applicant's responses and advised Applicant that the responses received appeared to be grossly inadequate and tantamount to a failure to provide discovery. Among other things, Applicant failed to provide a signed and sworn copy of its responses to Interrogatories, pursuant to *TBMP* § 405.04(c).¹ Moreover, Applicant refused to respond and objected to numerous respects alleging business secrets, notwithstanding the Board's standard protective order being applicable to this proceeding. *See* Decl. Friedman at ¶9; Exhibit. IV. Opposer did not receive a response to its letter dated July 22, 2014.

As a final good faith effort to resolve this dispute, on October 2, 2014, Opposer sent another letter to Applicant's counsel, in attempt to meet and confer to resolve these issues. *See* Decl. Friedman at ¶10, Exhibit. V. To date, Opposer has received no response from the Applicant. Opposer respectfully refers the Board to Opposer's letters dated July 22, 2014 and October 2, 2014, *See* Decl. Friedman, at Exhibit. IV, V, which detail many of the deficiencies in Applicant's responses. For the convenience of the Board, Opposer makes special reference to the following requests as detailed in Opposer's aforementioned correspondence:

Opposer's First Set of Interrogatories:

Interrogatory No. 3:

Opposer asked Applicant to identify each person who was responsible for or who participated in the conception, selection, or adoption of Applicant's Mark. In response, Applicant answered by identifying Majestique Corporation and its President Mr. Moises Zebede. Applicant has failed to provide the information Opposer seeks. Applicant failed

¹ To the extent the Applicant believes that the attorney qualifies as an agents of the Applicant, the document must show that "interrogatory answers which have been verified by its attorney" The document failed to show any such verification. (*See Decl. Friedman* ¶8.)

to identify "each and every person" who participated in the conception, selection, or adoption of Applicant's Mark. Although Applicant identified Moise Zebede, it has failed to identify "each and every" member of the Corporation who was involved in conception, selection, or adoption of the mark. Note that *TBMP§414* clearly indicated that information concerning a party's selection and adoption of its involved mark is generally discoverable. Such information is relevant because it may help identify reasonable number of those most knowledgeable of adoption, selection or day-to-day uses of mark and it may lead to relevant information concerning circumstances surrounding selection of mark, distinctiveness of mark.

Interrogatory No. 5:

Opposer asked Applicant to identify each person who assisted, advised or otherwise participated in conduction trademark search or any other search for the Applicant's Mark prior to Applicant's filing of its trademark application. In response, Applicant responded by identifying "Our Attorney." Applicant has failed to provide the information Opposer seeks. Although Applicant identified "Our Attorney," it has failed to identify the specific identification of this person or persons. To the extent this person is an in-house attorney, Applicant should provide his or her name and full title description at Majestique Corporation. If this person is an outside counsel, Applicant should identify his or her name and affiliated law firm, as well as the identification of the Officer at Majestique Corporation that the counsel reports to.

Interrogatory No. 6:

Opposer asked the Applicant to describe each product that has been, is being, or will be sold or offered for sale using Applicant's mark in the United States. Applicant

again did not answer the question completely. Instead, Applicant responded by stating : "Class 25," however such response did not provide with specificity as to what type of goods under class 025 has been, is being, or will be sold or offered for sale using Applicant's mark. Pursuant to Federal R. Civ. P. 33(b), each interrogatory must, to the extent it is not objected to, be answered separately and fully. As such, Opposer is entitled to a complete answer.

Interrogatory No. 7:

Opposer asked Applicant to identify each person who is presently, has been, or will be responsible for the sales and/or distribution of each product offered for sale, sold or distributed by Applicant using Applicant's mark in the United States. In response, Applicant answered by identifying Majestique Corporation. Applicant has failed to provide the information Opposer seeks. Applicant must clearly identify the name of any officer or member of the company who is responsible for sales and distribution of the product in the United States bearing Applicant's mark. Pursuant to *TBMP*§405.02, such request is within the scope allowed by TTAB. This objective information is required so that Applicant may assess which witness(es) it intends to notify for depositions during these proceedings.

Interrogatory No. 8:

Opposer asked Applicant to amplify information concerning each product described in Interrogatory No. 6. Applicant's answer was incomplete because Applicant only answered subpart a. of the subject Interrogatory No.8. No response was given to subpart b. and c. of the Interrogatory. Pursuant to Federal R. Civ. P. 33(b), Each

interrogatory must, to the extent it is not objected to, be answered separately and fully. As such, Applicant should be ordered to provide a complete answer.

Interrogatory No. 9:

The response provided by Applicant was vague and ambiguous. The Interrogatory aimed to discover whether the mark has been mentioned by any trade publications. However, Applicant's response, which simply stated "No.", did not provide a clear answer. In fact, such response is puzzling to Opposer as it has more than one meaning. Therefore, Applicant must clarify whether Applicant's mark upon goods has been made known by trade publication or Applicant simply refuses to provide such information.

Interrogatory No. 15:

Opposer asked Applicant to set forth the retail prices for each product identified in response to Interrogatory No. 6. Applicant's answer was incomplete. Applicant responded to Interrogatory No. 6 by stating : "Class 25," however such response did not provide with specificity as to what type of goods under Class 025 has been, is being, or will be sold or offered for sale using Applicant's mark. In its response to the instant Interrogatory, Applicant only identified price for each Polo is \$35, no other goods were disclosed. Pursuant to Federal R. Civ. P. 33(b), each interrogatory must, to the extent it is not objected to, be answered separately and fully.

Interrogatory No. 16:

Opposer asked Applicant to identify the name and address of the business establishments in the United states which are accessible to the public, where each itemed

identified in the Interrogatory No. 6 were sold and currently on sale. Applicant's responses contained numerous objections alleging business secrets, notwithstanding the Board's standard protective order being applicable to this proceeding. The information sought by Opposer is highly relevant to the issue on likelihood of confusion and it is also an important element of the DuPont factors.

Interrogatory Nos. 19, 20:

Opposer asked Applicant to state the annual dollar and unit volume of sales and advertising figures in the United states separately for each product identified in response to Interrogatory No. 6 from Applicant's first use of Applicant's mark to present. In response, Applicant refused to answer citing such information is a business secret. Such response is non-responsive and insufficient pursuant to *TBMP*§414. The rule clearly indicates that Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery. Further, if Applicant indeed maintains sales information in the ordinary course of business, and it is required for "IRS" purpose in the United States, providing a summary of such should not be difficult. Applicant's effort to stonewalling the discovery is without basis therefore it should be ordered to provide the sales figures.

Interrogatory Nos. 21, 22:

Opposer asked Applicant to describe in detail all instances or incidents of actual confusion between any of Applicant's products and the products of Opposer. In response, Applicant answered by stating the marks are completely different and how there can be no confusion. Such response was non-responsive and insufficient as Applicant did not address the question directly. This information is extremely relevant to the issue of

confusion. Opposer is entitled to a complete answer by Applicant or an alternative statement that no such incident exists.

Interrogatory No. 24:

Opposer asked Applicant identify each publication or item of advertising or item of advertising or promotional material in which applicant has advertised or promoted or will advertise or promote each product identified in Interrogatory No. 6, including the date of such publication and intended target customers. In response, Applicant stated that no such item exists. Applicant's response was disingenuous at best and seriously contradicted with its responses to Opposer's other Interrogatories, namely Nos.6, 10 and 15. In Interrogatory No. 10, Applicant responded by stating that the product has been advertised in shoppers in Puerto Rico. To the extent Applicant was referring to items other than clothing, as identified in its response to Opposer's Interrogatory No. 6, we then require Applicant to provide an amended answer to name additional goods previously not identified.

Interrogatory No. 28:

Opposer asked Applicant to identify all Applicant's importers, distributors, manufacturers and suppliers of each product identified in response to Interrogatory No.6. Applicant responded by making a blanket objection and stating that such information is irrelevant and business secret, notwithstanding the Board's standard protective order being applicable to this proceeding. Such information is certainly relevant as it helps for us to identify all parties involved in the subject matter and any instances of confusion or similarity of trade channels. As for issues on such information being a business

secrets, Applicant must be aware that the Board's standard protective order is already in place to govern the exchange of information.

First Requests For Production of Documents and Things

No. 4, 5:

Opposer asked Applicant to provide date of first use of the mark on each of the goods identified by Applicant and a specimen of each product, including the packaging for each product, identified in response to Interrogatory No. 6 that has been, is being, or will be sold or offered sale using Applicant's mark. Applicant responded by referring to its trademark application. Applicant identified only one product--Polo. It should not be difficult to produce label or packaging materials for a single product, as any business will have records of such. Surely Opposer does not need to remind Applicant that under *TBMP*§408.1, The Board expects parties (and their attorneys or other authorized representatives) to cooperate with one another in the discovery process, and looks with extreme disfavor on those who do not. Further, Applicant's request is entirely proper as it is relevant to the issue of first use. As such, Applicant should be ordered to produce relevant documents.

No. 14:

Opposer asked Applicant to produce all documents, from the time Applicant began using Applicant's mark until the present, concerning the gross income derived from the sale of products bearing Applicant's mark in the United States. No documents were provided. *TBMP*§414 clearly indicates that "[i]nformation concerning a party's first use of its involved mark is discoverable." Opposer requires that Applicant produce the information sought in Request No. 14. As for such information being business secrets,

Applicant must be aware that the Board's standard protective order is applicable to govern the exchange of information. Further, if Applicant indeed maintains sales information in the ordinary course of business, and it is required for "IRS" purposes in the United States, providing such information should not be difficult. As such, Applicant should be ordered to produce relevant documents.

Nos. 15, 16, 17:

Opposer asked Applicant to produce sales records derived from products offered for sale or sold using Applicant's mark in the United States. Applicant's response to No.17 clearly indicated that sales records exists, however, Applicant's inconsistent statement in No. 15 and 16 demonstrates an uncooperative attitude, suggests that Applicant's response is no more than a tactic to delay the proceeding. Furthermore, *TBMP*§414 clearly indicates that Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery. As such, Applicant should be ordered to produce relevant documents.

Nos. 18, 19:

Opposer asked Applicant to produce all documents concerning the geographic areas in which Applicant's goods featuring Applicant's mark are offered for sale or sold, or intended to be offered for sale or sold in the United States. No responsive documents were produced. The requests in No. 18 and 19 are highly relevant to the issue on likelihood of confusion and it is also an important element of the DuPont factors. Applicant should be ordered to produce relevant documents.

Nos. 20, 24:

Please clarify the response to No. 20 and No. 24 as Applicant's response to No. 20 clearly contradicts the response provided in No.24.

No. 21:

No responsive document were produced. Further, Applicant stated "N/A" as the only response for such request. Applicant should be ordered to clarify whether such document exists or simply confirm that it does not exist.

No. 22:

Applicant was asked to produce all documents concerning purchaser of the goods, sold or to be sold under Applicant's mark. No document was produced. Applicant further objects to the request, stating that such information is irrelevant and is a business secret. We disagree. First, such information is relevant to the issue of use, abandonment and channels of trade, which is clearly within the scope of discovery under *TBMP* § 406.02 and §402.02. Second, Applicant must be aware that the Board's standard protective order is already in place to govern the exchange of information. Third, Applicant's response to Opposer's document request No. 13 clearly shows that Applicant knew exactly what Applicant is seeking, because a wholesaler by definition, is a merchant selling goods in relatively large quantities, such as selling to retailers for resale to consumers. As such, Applicant's response is non-responsive and disingenuous at best as Applicant must know who buys its products. Applicant should be ordered that such information be produced or made available for copying and inspection.

CONCLUSION

WHEREFORE, Opposer respectfully moves for an order directing Applicant to re-serve its responses and to the extent that its present responses be deemed sufficient,

Applicant should be ordered to address the deficiencies as detailed in the letters dated July 22, 2014 and October 2, 2014; and directing Applicant to produce responsive documents without objection.

Dated: October 31, 2014

Respectfully submitted for Opposer,
NAUTICA APPAREL, INC.,

By: /Neil B. Friedman/
Neil B. Friedman
BAKER & RANNELLS, P.A.
575 Route 28, Suite 102
Raritan, NJ 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was sent to attorneys for Applicant this 31st day of October 2014 via first class mail, postage prepaid, to the following:

GINO NEGRETTI LAW OFFICES
670 PONCE DE LEON AVE.
CARIBBEAN TOWERS, STE. 17
SAN JUAN, PR 00907-3207

/Neil B. Friedman/
Neil B. Friedman

Exhibit A

-----X		
NAUTICA APPAREL, INC.,	:	Opposition No.: 91212653
	:	
Opposer,	:	
	:	
v.	:	
	:	
MAJESTIQUE CORPORATION,	:	
	:	
	:	Mark:
Applicant.	:	
	:	
	:	Ser. No. 85883577
-----X		



Neil B. Friedman, an attorney admitted to practice in New York and New Jersey declares as follows pursuant to 28 U.S.C. § 1746:

- 1

6. On June 4, 2014, Applicant replied by sending a letter to Opposer, in which it claimed that Applicant had answered Opposer's First set of Interrogatories and First Set of Document Requests on February 20, 2014. Applicant refused to provide same.

7. Having received no compliance from Applicant, on June 18, 2014, Opposer sent out a follow-up requests for the discovery responses in a good faith effort to obtain responses from Applicant. In that letter, Opposer advised Applicant that the Board's order dated April 16, 2014 required the parties to re-serve discovery requests. A copy of the good faith demand letters are attached as *Exhibit III*.

8. On July 7, 2014, Applicant served the identical response to Opposer's First set Interrogatories and Document Requests previously provided on February 20, 2014.

9. On July 22, 2014, as a good faith effort to obtain complete response, Applicant, Opposer sent another letter to Applicant's counsel demanding complete responses and to cure deficiencies in Applicant's responses to Opposer' discovery requests. A copy of the good faith demand letter is attached as *Exhibit IV*.

10. Applicant's counsel never responded to the letter sent on July 22, 2014. No request for additional time was made and no information was provided regarding the deficiencies in Applicant's discovery responses. On October 2, 2014, I contacted opposing counsel via a letter through email followed by the same via first class mail and requested that the parties meet and confer by no later than October 9, 2014. Copies of the letter and email are attached as *Exhibit V*.

11. No response was forthcoming from Applicant's counsel despite demanding a response by a firm date and as of the date of this motion I have not received any further communication from Applicant.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.

Executed: Raritan, New Jersey
October 31, 2014

/Neil B. Friedman/
Neil B. Friedman

Exhibit I.




NEIL B. FRIEDMAN, ESQ.
575 ROUTE 28
RARITAN, NJ 08542
(908) 722-5640
N.FRIEDMAN@BR-TMLAW.COM

April 17, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

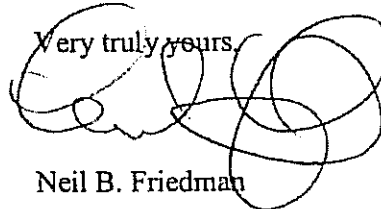
Mark: 
Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

We are writing on behalf of our client Nautica Apparel, Inc. ("Nautica").

In light of the Board's recent Order, please find enclosed Opposer's Initial Disclosures, Interrogatories and Document Requests. Additionally, we provide you with Opposer's First Request for Admissions. We require your responses thereto. Additionally, we have already pointed out the deficiencies in your prior responses. We look forward to receiving complete responses and the documents requested.


Very truly yours,



Neil B. Friedman

NBF:ab
Enclosures

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NAUTICA APPAREL, INC., Opposer, v. MAJESTIQUE CORPORATION, Applicant.	: : : : : : : : : : X	Opposition No.: 91212653 Mark:  Ser. No. 85883577
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OPPOSER'S INITIAL DISCLOSURES

Opposer, Nautica Apparel, Inc. ("Nautica"), by and through its attorneys Baker and Rannells, PA, hereby makes its Initial Disclosures as required by Federal Rule of Civil Procedure 26(a)(1):

GENERAL MATTERS

By identifying certain individuals and categories of documents, Nautica does not waive or intend to waive, but on the contrary preserves and intends to preserve, all information and documents that are subject to the attorney-client privilege, the work product doctrine and any other privilege available under federal or state statutory, constitutional or common law.

These disclosures are made subject to Nautica's continuing investigation of facts underlying its claims in this proceeding and, therefore, Nautica expressly reserves its right to supplement, amend, correct, or modify these Initial Disclosures as its ongoing investigatory or discovery efforts reveal further information or documents.

INITIAL DISCLOSURES

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information:

The following individual is likely to have discoverable information that Nautica may use to support the claims alleged in the proceeding. Nautica's response is based on information presently available to it, and it reserves the right to supplement this list as discovery progresses.

Subject to these qualifications, Nautica discloses the following:

Margaret Bizzari
Nautica Apparel, Inc.
40 West 57th Street
New York, NY 10019

Subjects of information: The history and use of Nautica's trademarks, Nautica's products and the sale of such products, promotional and sponsorship activities, Nautica's trademark enforcement efforts.

B. A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment:

The following list identifies the documents in Nautica's possession, custody or control that Nautica may use to support its claims and/or defenses. Nautica reserves the right to supplement this list when discovery progresses.

1. Applicant's trademark file wrapper.
2. Nautica's trademark registrations.
3. Nautica's business records.

4. Nautica's advertising and sponsorship materials.
5. Third party articles and media attention given to Nautica.
6. Trial decisions obtained by Nautica in other TTAB proceedings.

Dated: April 17, 2014

For Opposer Nautica Apparel, Inc.

By: / Neil B. Friedman /
Neil B. Friedman
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent to attorneys for Applicant
this 17th day of April, 2014 via first class mail, postage prepaid, to the following:

GINO NEGRETTI LAW OFFICES
670 PONCE DE LEON AVE.
CARIBBEAN TOWERS, STE. 17
SAN JUAN, PR 00907-3207

/ Neil B. Friedman /
Neil B. Friedman

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X		
NAUTICA APPAREL, INC.,	:	Opposition No.: 91212653
	:	
Opposer,	:	
v.	:	
	:	
MAJESTIQUE CORPORATION,	:	
	:	
Applicant.	:	Mark: 
	:	
	:	Ser. No. 85883577
-----X		

**OPPOSER'S FIRST SET OF
INTERROGATORIES TO APPLICANT**

Opposer Nautica Apparel, Inc. ("Opposer"), pursuant to Rule 2.120 of the Trademark Rules of Practice, and Rule 33 of the Federal Rules of Civil Procedure, hereby requests that Applicant, Majestique Corporation ("Applicant"), answer separately and fully, in writing under oath, the following Interrogatories within thirty (30) days after service of this request.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term "Opposer" means and shall refer to Opposer herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

2. As used herein, the term "Applicant" means and shall refer to Majestique Corporation applicant and each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

3. As used herein, the term "Person" as well as pronouns referring thereto shall include any business, legal or government entity or association, as well as natural persons.

4. As used herein, the term "identify" or the phrase "give the identity of" shall mean:

a. In the case of a natural person: (1) his or her full name; (2) his or her present or last known address and telephone number; (3) his or her present or last known employer or business affiliation and business telephone number; and (4) the title(s) or position(s) held at any time by such person with respect to such employer or business affiliation;

b. In the case of a corporation, business entity, or organization: (1) its full name; (2) the address of its principal place of business; (3) the identity of any and all of its officers, directors, and managing agents; and (4) if unincorporated, the nature of the entity or organization, i.e. sole proprietorship, partnership, etc.;

c. In the case of a document: (1) the author(s) of the document; (2) any and all persons who received such document (including copies); (3) the date of such document; and (4) the general subject matter of such document;

d. In the case of a product: (1) the generic name of the product; (2) the function of the product; and (3) the inclusive dates during which the product has been sold or offered for sale in the United States;

e. In the case of an instance or incident: (1) the identity of each person who participated in or who has knowledge of the instance or

incident; (2) the circumstances surrounding the instance or incident; and
(3) the date or the inclusive dates during which the instance or incident
occurred.

5. As used herein, the term “document” includes any tangible thing from or
on which information can be stored, recorded, processed, transmitted, inscribed, or
memorialized in any way by any means, regardless of technology or form.

6. As used herein, the term “date” means the exact date, if known, and, if not
known, the approximate date.

7. With respect to each interrogatory to which an objection is made, state the
specific grounds of the objection and answer any portion of the interrogatory which does
not fall within the stated objection.

8. Any word written in the singular shall be construed as plural or vice-versa
when necessary to facilitate the answer to the interrogatory.

9. As used herein, the term “all” and “each” shall be construed as all and
each to bring within the scope of the discovery request all responses that might be
construed to be outside of its scope.

10. As used herein, the connectives “and” and “or” shall be construed either
disjunctively or conjunctively as necessary to bring within the scope of the discovery
requests all responses that might otherwise be construed to be outside of its scope.

11. As used herein, the term “Applicant’s Mark” means and shall refer to the
design mark in App. No. 85883577, which is the subject of Opposer’s Notice of
Opposition.

12. As used herein, the term “Applicant’s Goods” means and shall refer to the
goods listed in App. No. 85883577.

13. As used herein, the term "Opposer's Marks" means and shall refer to those marks listed in Paragraphs 5 and 6 of Opposer's Notice of Opposition.

INTERROGATORIES

INTERROGATORY NO. 1

State the date upon which Applicant began use of Applicant's Mark.

INTERROGATORY NO. 2

Identify any business affiliated with Applicant and/or Applicant's Mark.

INTERROGATORY NO. 3

Identify each person who was responsible for or who participated in the conception, selection, or adoption of Applicant's Mark.

INTERROGATORY NO. 4

State the reason(s) Applicant selected Applicant's Mark as a trademark.

INTERROGATORY NO. 5

Identify each person who assisted, advised or otherwise participated in conducting trademark searches or any other search for the Applicant's Mark prior to Applicant's filing of its trademark application.

INTERROGATORY NO. 6

Describe each product that has been, is being, or will be sold or offered for sale using Applicant's Mark in the United States.

INTERROGATORY NO. 7

Identify each person who is presently, has been, or will be responsible for the sale and/or distribution of each product offered for sale, sold, or distributed by Applicant using Applicant's Mark in the United States, and indicate the periods of time during

which each such person was responsible for the offering for sale, sale and/or distribution of said product, and the responsibilities of each such person.

INTERROGATORY NO. 8

State for each such product described in response to Interrogatory No. 6:

- a. the date the product was first sold in intrastate and interstate commerce;
- b. whether any product was discontinued, each product that was discontinued, the date when sale of the product was discontinued, and the reason(s) for such discontinuance; and
- c. whether any product that was discontinued was later resumed and whether the mark is currently in use.

INTERROGATORY NO. 9

If Applicant's use of Applicant's Mark upon goods or in conjunction with services has been made known to the trade and/or public in the United States by means of magazine or newspaper articles, trade publications or by any other manner, identify all such articles, publications and the like.

INTERROGATORY NO. 10

Identify the means by which products offered under Applicant's Mark have been promoted or advertised in the U.S.

INTERROGATORY NO. 11

Describe in detail the trade channels for each product identified in response to Interrogatory No. 6 by which such product traveled, travels or will travel from Applicant to the ultimate end user of such product in the United States.

INTERROGATORY NO. 12

Describe in detail the geographic areas in the United States in which each product identified in Interrogatory No. 6 are sold.

INTERROGATORY NO. 13

Describe in detail the geographic areas in the United States in which Applicant advertises each product identified in Interrogatory No. 6.

INTERROGATORY NO. 14

Describe the type of end user for each product identified in response to Interrogatory No. 6.

INTERROGATORY NO. 15

Set forth the actual retail prices for each product identified in response to Interrogatory No. 6.

INTERROGATORY NO. 16

Identify the names and addresses of the business establishments in the United States, which are accessible to the public, where each of the products identified in response to Interrogatory No. 6 were sold or are currently on sale.

INTERROGATORY NO. 17

Describe the target class of consumer for the goods sold under Applicant's mark.

INTERROGATORY NO. 18

Identify all re-sellers (such as retailers, wholesalers, distributors and/or licensees) who have ever agreed to license or sell goods under Applicant's Mark and identify the goods involved.

INTERROGATORY NO. 19

State the annual dollar and unit volume of sales in the United States separately for each product identified in response to Interrogatory No. 6 from Applicant's first use of Applicant's Mark to the present.

INTERROGATORY NO. 20

State the annual advertising and promotional expenditures in the United States separately for each product identified in response to Interrogatory No. 6 from Applicant's first use of Applicant's Mark to the present.

INTERROGATORY NO. 21

Describe in detail all instances or incidents of actual confusion between any of Applicant's products and the products of Opposer.

INTERROGATORY NO. 22

If any person has ever received any mail, inquiries, or other communications evidencing confusion, mistaken identity or relationship, or possible mistake between Opposer's products and the products of Applicant, or between Applicant's Mark and Opposer's Mark:

- a. Identify the person who sent the communication or made the inquiry; and
- b. Identify the person who received the communication or to whom such inquiry was made.

INTERROGATORY NO. 23

Identify all disputes, including, but not limited to, lawsuits, oppositions, cancellation proceedings, written objections or threatened litigation, in which Applicant is or has in any way been involved (other than the present proceeding) with respect to Applicant's Mark, and indicate how such dispute was eventually resolved, including

whether there were any agreements between the parties or decisions issued by any court or tribunal.

INTERROGATORY NO. 24

Identify each publication or item of advertising or promotional material in which Applicant has advertised or promoted or will advertise or promote each product identified in Interrogatory No. 6, including the date of each such publication or item of advertising or promotional material and the type of persons to whom the item was distributed.

INTERROGATORY NO. 25

Identify by stating the name, address and business affiliation of any and all expert witnesses Applicant has retained, employed, consulted or whose views or opinions have been sought by or on behalf of Applicant, whether or not such expert is expected to testify during Applicant's testimony period, concerning any aspect of this proceeding, and state the area of expertise of such witness.

INTERROGATORY NO. 26

Identify all witnesses upon whose testimony Applicant intends to present and rely in proof of any issue in this proceeding.

INTERROGATORY NO. 27

For each product identified in response to Interrogatory No. 6, state the amount of inventory maintained by Applicant for each calendar month from the date Applicant began selling such product until the present.

INTERROGATORY NO. 28

Identify all of Applicant's importers, distributors, manufacturers and suppliers of each product identified in response to Interrogatory No. 6.

INTERROGATORY NO. 29

Identify all of Applicant's manufacturers and suppliers of labels, brochures, flyers, catalogs, packaging, or other items which relate to or refer to Applicant's Mark or the products identified in response to Interrogatory No. 6.

INTERROGATORY NO. 31

Identify by name, address and title all persons who participated in any way in the preparation of the answers or responses to these Interrogatories, including those persons who were consulted in the course of answering or responding to such interrogatory, and the documents relied upon in preparing such answers.

Dated: April 17, 2014

For Opposer Nautica Apparel, Inc.

By: / Neil B. Friedman /
Neil B. Friedman
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent to attorneys for Applicant this 17th day of April, 2014 via first class mail, postage prepaid, to the following:

GINO NEGRETTI LAW OFFICES
670 PONCE DE LEON AVE.
CARIBBEAN TOWERS, STE. 17
SAN JUAN, PR 00907-3207

/ Neil B. Friedman /
Neil B. Friedman

-----X	
NAUTICA APPAREL, INC.,	: Opposition No.: 91212653
	: :
Opposer,	: :
	: :
v.	: :
	: :
MAJESTIQUE CORPORATION,	: :
	: :
Applicant.	: Mark:
	: :
	: Ser. No. 85883577
-----X	



Opposer, Nautica Apparel, Inc. ("Opposer"), hereby requests that Applicant, Majestique Corporation ("Applicant"), produce and permit Opposer to inspect and copy the following designated documents and things, pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, at the office of Baker and Rannells, PA, 575 Route 28, Raritan, NJ 08869, or at some other location mutually agreed upon, thirty (30) days after receipt hereof.

1. As used herein, the term "Opposer" means and shall refer to Opposer herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

1

affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

3. As used herein, the term "Person" as well as pronouns referring thereto shall include any business, legal or governmental entity or association, as well as natural persons.

4. As used herein, the term "Document" includes any tangible thing from or on which information can be stored, recorded, processed, transmitted, inscribed, or memorialized in any way by any means, regardless of technology or form.

5. With respect to each Document to which an objection as to production is made, state:

- a. The nature of the Document;
- b. The date of the Document;
- c. The name of the person(s) to whom the Document was addressed;
- d. The name of the person(s) who received such Document;
- e. The name of the person(s) who prepared or sent the Document;
- f. The general subject matter of the Document; and
- g. The specific grounds upon which the objection is made.

6. As used herein, the term "date" means the exact date, if known, and, if not known, the approximate date.

7. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate a response to a request for production of a document or thing.

8. As used herein, the term "all" and "each" shall be construed as all and each to bring within the scope of the discovery request all documents and things that might otherwise be construed to be outside of its scope.

9. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all documents and things that might otherwise be construed to be outside of its scope.

10. "Refer," "relate" or "relating," "regarding," "concerning," "reflecting" or "containing" shall mean directly or indirectly, in whole or in part, referring to, relating to, connected with, commenting on, discussing, impacting upon, affecting, responding to, explaining, showing, indicating, describing, analyzing, reflecting, evidencing or constituting.

11. As used herein, the term "Applicant's Mark" means and shall refer to the design mark in App. No. 85883577, which is the subject of Opposer's Notice of Opposition.

12. As used herein, the term "Applicant's Goods" means and shall refer to the goods listed in App. No. 85883577.

13. As used herein, the term "Opposer's Marks" means and shall refer to those marks listed in Paragraphs 5 and 6 of Opposer's Notice of Opposition.

REQUESTED DOCUMENTS AND THINGS

REQUEST NO. 1

All documents concerning the selection, creation and development of Applicant's Mark.

REQUEST NO. 2

All documents concerning Opposer and/or Opposer's Mark.

REQUEST NO. 3

A specimen of each and every brochure, business plan, marketing plan, proposal, or other document created at any time that describes the business of Applicant and its plan for goods bearing Applicant's Mark.

REQUEST NO. 4

A specimen of each product, including the packaging for each product, identified in response to Interrogatory No. 6 that has been, is being, or will be sold or offered for sale using Applicant's Mark.

REQUEST NO. 5

All Documents concerning the date on which Applicant began using Applicant's Mark for each of Applicant's Goods.

REQUEST NO. 6

Produce all documents upon which Applicant will rely that supports its continued use of Applicant's Mark.

REQUEST NO. 7

All documents concerning the date on which Applicant made its first sale of any product using Applicant's Mark.

REQUEST NO. 8

All documents concerning each trademark search, clearance or other inquiry conducted by or on behalf of Applicant that refers or relates to the registration or use of Applicant's Mark.

REQUEST NO. 9

All documents concerning each survey, test survey, informal survey, consumer questionnaire, consumer study questionnaire, market analysis, market research,

investigation or other inquiry conducted by or on behalf of Applicant or of which Applicant has become aware that refers or relates to Opposer, Opposer's Marks, Applicant or Applicant's Mark.

REQUEST NO. 10

Produce all documents that concern Opposer that were reviewed or discussed by Applicant prior to filing the application for Applicant's Mark.

REQUEST NO. 11

All advertising or promotional materials which have been or are being used by Applicant and that contain Applicant's Mark.

REQUEST NO. 12

Produce copies of all advertisements and/or promotional materials concerning Applicant's Goods featuring Applicant's Mark.

REQUEST NO. 13

All documents concerning the channels of trade through which products and/or services are offered for sale or sold using Applicant's Mark and their travel from Applicant to the ultimate consumers of the products in the United States.

REQUEST NO. 14

All documents, from the time Applicant began using Applicant's Mark until the present, concerning Applicant's gross income derived from the sale of products offered for sale or sold using Applicant's Mark in the United States.

REQUEST NO. 15

All documents concerning Applicant's estimated or projected gross income to be derived from the sale of products offered for sale or sold using Applicant's Mark in the United States.

REQUEST NO. 16

All documents, from the time Applicant began using Applicant's Mark until the present, concerning the number of units of products offered for sale or sold using Applicant's Mark in the United States.

REQUEST NO. 17

All documents concerning Applicant's estimated or projected number of units of products which will be offered for sale or sold using Applicant's Mark in the United States.

REQUEST NO. 18

All documents concerning the geographic locations in which Applicant offers for sale and sells, or has offered for sale and sold, each product using Applicant's Mark.

REQUEST NO. 19

All documents concerning the geographic locations in which Applicant intends to offer for sale and sell products using Applicant's Mark.

REQUEST NO. 20

A representative sample of each class or type of promotional material, including, but not limited to, advertisements, catalogs, brochures, posters, sales sheets, point of sale displays, flyers and price lists, which is, has been, or is intended to be used to promote products using Applicant's Mark in the United States.

REQUEST NO. 21

All documents concerning or identifying the customers to whom goods bearing Applicant's Mark is promoted.

REQUEST NO. 22

All documents concerning purchasers of the goods sold or to be sold under Applicant's Mark.

REQUEST NO. 23

Produce all documents reflecting money spent by Applicant advertising and promoting goods bearing Applicant's Mark in the U.S.

REQUEST NO. 24

All Documents concerning all communications between Applicant, on the one hand, and any and all of Applicant's manufacturers, suppliers, labelers, packers, shippers, and distributors, on the other hand, concerning products offered for sale and sold using Applicant's Mark in the United States, including but not limited to, Documents concerning Applicant's purchase of products or materials used in manufacturing, labeling, packaging or distributing such products.

REQUEST NO. 25

All Documents, from the time Applicant began using Applicant's Mark until the present, concerning Applicant's inventory of products offered for sale and sold using Applicant's Mark in the United States.

REQUEST NO. 26

All license agreements, sponsorship agreements, or any other agreement, whether in draft or final form, wherein Applicant allows, allowed, or will allow the use of Applicant's Mark by another.

REQUEST NO. 27

All Documents concerning all assignments or any other agreement to which Applicant, or its predecessors in interest, is a party involving Applicant's Mark.

REQUEST NO. 28

All Documents concerning each instance in which any person has been in any way confused, mistaken or deceived as to the origin or sponsorship of any product or service which is sold or offered for sale by or on behalf of Applicant using Applicant's Mark.

REQUEST NO. 29

All Documents concerning all communications between Applicant, on the one hand, and any individual or entity, on the other hand, concerning Opposer, Opposer's Marks, and/or Applicant's Mark.

REQUEST NO. 30

Each Document which concerns any experts who have been retained or specially employed by Applicant, and any facts known or opinions held by any such experts regarding any aspect of this proceeding.

REQUEST NO. 31

For each expert whose opinion may be relied upon in this proceeding, each document which concerns: (i) any opinions that may be presented at trial; (ii) the reasons

for any such opinions; (iii) any data or information considered by the witness in forming the opinions; (iv) any exhibits used in support of or summarizing the opinions; (v) the compensation being paid to the witness, and (vi) any cases which the witness has testified at trial or by deposition from 1992 to date.

REQUEST NO. 32

All Documents concerning any lawsuits, oppositions, cancellation proceedings, written objections, cease and desist letters, threatened litigation in which Applicant has in any way been involved (other than this proceeding) with respect to Applicant's Mark.

REQUEST NO. 33

All documents reflecting, relating to, pertaining to, or referring to any disputes, disagreements or controversies Applicant has had in the past or now has with a party other than Opposer.

REQUEST NO. 34

Produce all documents concerning the meaning, significance, and/or commercial impression of Applicant's Mark.

REQUEST NO. 35

Produce documents sufficient to identify each (1) wholesaler, (2) distributor, and (3) retailer that has sold and/or has agreed to sell any of goods bearing Applicant's Mark in the United States.

REQUEST NO. 36

All documents pertaining or relating to any litigation, including administrative proceedings of any type, other than this proceeding, in which Applicant has been

involved, either as a party or otherwise, which involved any trademark, service mark, trade name, or copyright claims of any kind.

REQUEST NO. 37

Produce all documents that support Applicant's Answer and Affirmative Defenses in this proceeding.

REQUEST NO. 38

All Documents and things which were identified, required to be identified, and/or used by Applicant to answer Opposer's First Set of Interrogatories to Applicant.

Dated: April 17, 2014

For Opposer Nautica Apparel, Inc.

By: /Neil B. Friedman /
Neil B. Friedman
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent to attorneys for Applicant
this 17th day of April, 2014 via first class mail, postage prepaid, to the following:

GINO NEGRETTI LAW OFFICES
670 PONCE DE LEON AVE.
CARIBBEAN TOWERS, STE. 17
SAN JUAN, PR 00907-3207

/Neil B. Friedman /
Neil B. Friedman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X	
NAUTICA APPAREL, INC.,	: Opposition No.: 91212653
	:
Opposer,	:
v.	:
	:
MAJESTIQUE CORPORATION,	: Mark:
	:
Applicant.	: Ser. No. 85883577
-----X	



**OPPOSER'S FIRST SET OF
ADMISSION REQUESTS TO APPLICANT**

Opposer Nautica Apparel, Inc. ("Opposer"), pursuant to Rule 2.120 of the Trademark Rules of Practice, and Rule 33 of the Federal Rules of Civil Procedure, hereby requests that Applicant, Majestique Corporation ("Applicant"), answer separately and fully, in writing under oath, the following Admissions within thirty (30) days after service of this request.

Failure to timely respond will constitute an admission of each matter raised in this request.

If Applicant declines to answer a request for admission, or a portion thereof, by claiming Applicant can neither admit nor deny the request, set forth the basis of the inquiry made.

If Applicant objects, in whole or in part, to any of the Requests for Admissions that follow, Applicant is requested to state in detail its reason(s) for such objection.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term "Opposer" means and shall refer to Nautica Apparel, Inc. herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.
2. As used herein, the term "Applicant" means and shall refer to Majestique Corporation applicant and each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.
3. As used herein, the term "Person" as well as pronouns referring thereto shall include any business, legal or government entity or association, as well as natural persons.
4. With respect to each request to which an objection is made, state the specific grounds of the objection and answer any portion of the request which does not fall within the stated objection.
5. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate the answer to the request.
6. As used herein, the term "all" and "each" shall be construed as all and each to bring within the scope of the discovery request all responses that might be construed to be outside of its scope.
7. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope.

8. As used herein, the term “Applicant’s Mark” means and shall refer to the design mark in App. No. 85883577, which is the subject of Opposer’s Notice of Opposition.

9. As used herein, the term “Applicant’s Goods” means and shall refer to the goods listed in App. No. 85883577.

10. As used herein, the term “Opposer’s Marks” means and shall refer to those marks listed in Paragraphs 5 and 6 of Opposer’s Notice of Opposition.

ADMISSIONS

1. Admit that Applicant’s Mark consists of design.

RESPONSE:

2. Admit that Applicant uses Applicant’s Mark on or in connection with the trademark SAILOR.

RESPONSE:

3. Admit that Applicant uses Applicant’s Mark in connection with images of bodies of water.

RESPONSE:

4. Admit that Applicant uses Applicant’s Mark in connection with images of boats.

RESPONSE:

5. Admit that Applicant is using Applicant's Mark on or in connection with clothing.

RESPONSE:

6. Admit that Applicant is using Applicant's Mark on or in connection with clothing being sold at retail stores.

RESPONSE:

7. Admit that Applicant was aware of Opposer's Mark when Applicant filed a trademark application for Applicant's Mark.

RESPONSE:

8. Admit that Applicant was aware of Opposer's Mark when Applicant began using Applicant's Mark.

RESPONSE:

9. Admit that Applicant was aware of Opposer's "Deck Shirt" when it created the shirt as depicted in Exhibit A.

RESPONSE:

10. Admit that Applicant's products are directed towards consumers with an outdoor lifestyle.

RESPONSE:

11. Admit that Applicant's products are directed towards consumers with a sailing lifestyle.

RESPONSE:

12. Admit that Applicant's products are directed towards consumers with a boating lifestyle.

RESPONSE:

Dated: April 17, 2014

For Opposer Nautica Apparel, Inc.

By: / Neil B. Friedman /
Neil B. Friedman
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent to attorneys for Applicant
this 17th day of April, 2014 via first class mail, postage prepaid, to the following:

GINO NEGRETTI LAW OFFICES
670 PONCE DE LEON AVE.
CARIBBEAN TOWERS, STE. 17
SAN JUAN, PR 00907-3207

/ Neil B. Friedman /
Neil B. Friedman

EXHIBIT A

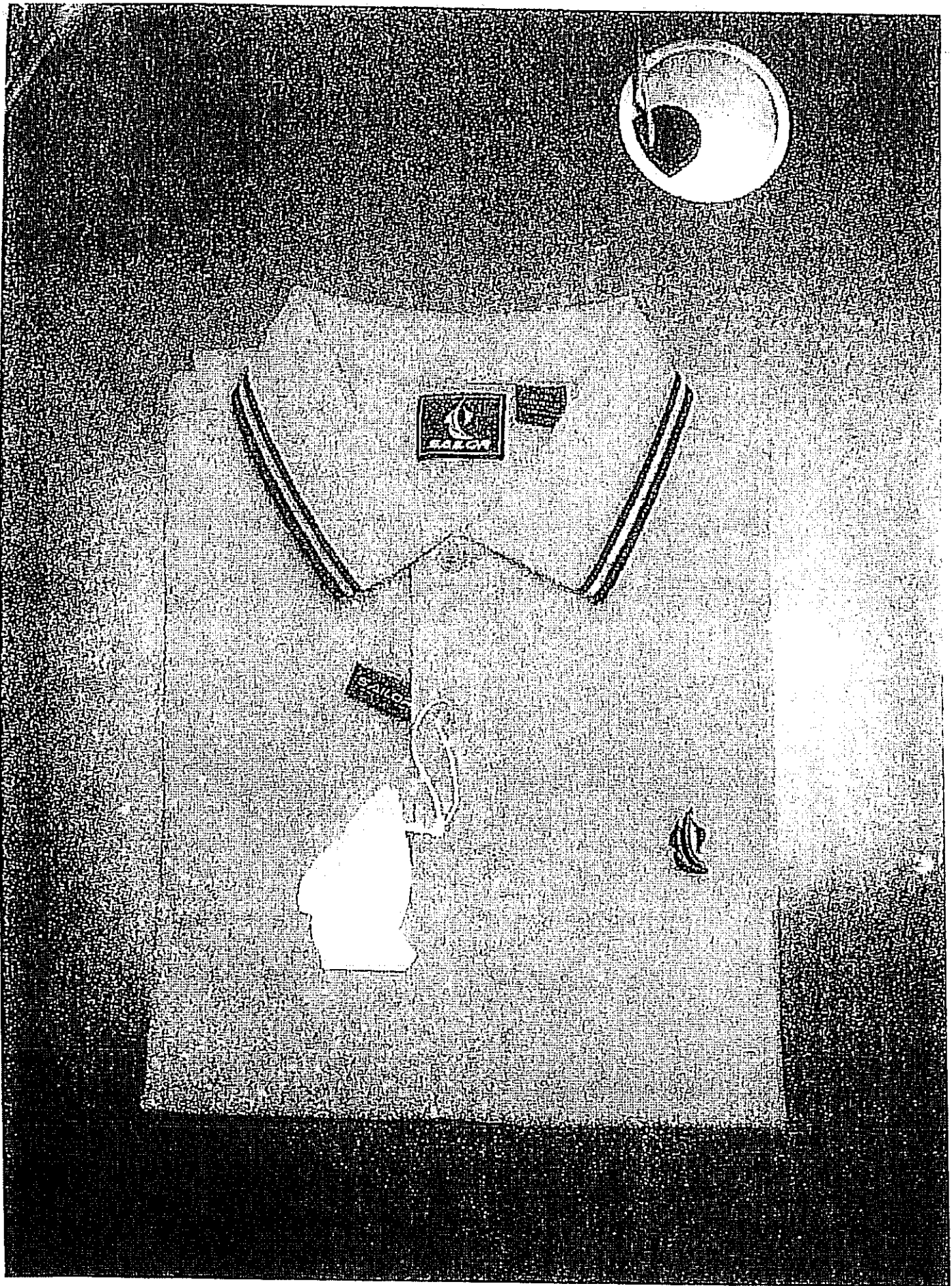


Exhibit II.

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
RYAN A. MCGONIGLE ♦

JASON L. DEFRANCESCO*
PEI-LUN CHANG 張培倫+

575 ROUTE 28 - SUITE 102
RARITAN, NEW JERSEY 08869
TELEPHONE (908) 722-5640
FACSIMILE (908) 725-7088
WWW.TMLAWWORLDWIDE.COM

NEW YORK OFFICE
570 LEXINGTON AVENUE
10TH FLOOR
NEW YORK, NY 10022
TELEPHONE (212) 481-7007
FACSIMILE (800) 688-8235

ADMITTED TO PRACTICE IN:
♦NEW YORK & NEW JERSEY
+NEW JERSEY
* WASHINGTON, DC & FLORIDA
& REG. PATENT ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

May 28, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

Mark:



Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

We are writing on behalf of our client Nautica Apparel, Inc. ("Nautica").

On April 17, 2014, Nautica served you with Opposer's initial disclosures and discovery requests. By our calculations, your client's responses were due May 22, 2014. No response has been forthcoming. We insist that you provide us with your responses by June 6, 2014 without objection. I would note that a mere re-service of your incomplete responses previously provided will not suffice. This letter shall serve as our good faith effort to avoid a discovery dispute regarding your failure to comply with discovery.

Very truly yours,

Neil B. Friedman

NBF:ab

Exhibit III.

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
RYAN A. MCGONIGLE ♦

JASON L. DeFRANCESCO*
PEI-LUN CHANG 張培倫+

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ADMITTED TO PRACTICE IN:
♦NEW YORK & NEW JERSEY
+NEW JERSEY
* WASHINGTON, DC & FLORIDA
& REG. PATENT ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

June 18, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

Mark:



Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

We are in receipt of your dated June 6, 2014.

It would appear that you have completely ignored the Board's Order dated April 16, 2014. The Order stated as follows:

Inasmuch as the Board had suspended proceedings with respect to all matters not relevant to opposer's then-pending motion to strike, it was procedurally improper for the parties to proceed with discovery. Moreover, discovery had not yet opened at the time the Board suspended proceedings. Thus, the parties were obligated to wait until such time as the Board resumed proceedings and reset deadlines before serving initial disclosures and discovery.

The Board further stated that [T]he parties may re-serve discovery, as appropriate, and must do so in accordance with Trademark Rule 2.120.

Therefore, all discovery that was previously served is considered a nullity, including initial disclosures. As such, we immediately re-served our discovery requests in accordance with the Board's Order. To the extent that you believe you previously responded to the requests, your responses will need to be re-served. I will caution however, we have already disputed the responses you have provided which led to our motion to compel. We request that you take our requests seriously and provide complete answers in accordance with our prior correspondence.

Lastly, to the extent that you believe we have not timely responded to your requests, I reiterate our objections as set forth in my letter dated March 20, 2014 and, in any event, such requests have been rendered void pursuant to the Board's Order dated April 16, 2014.

We look forward to your complete, revised and newly issued responses to our client's discovery requests by no later than **June 27, 2014**. This letter shall serve as our good faith attempt to resolve a potential discovery dispute.

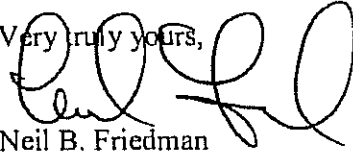
Very truly yours,

Neil B. Friedman

Exhibit IV.

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
RYAN A. MCGONIGLE ♦

575 ROUTE 28 - SUITE 102
RARITAN, NEW JERSEY 08869
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NEW YORK OFFICE
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TELEPHONE (212) 481-7007
FACSIMILE (800) 688-8235

JASON L. DEFRADESCO*
PEI-LUN CHANG 張培倫†

ADMITTED TO PRACTICE IN:
♦NEW YORK & NEW JERSEY
+NEW JERSEY
* WASHINGTON, DC & FLORIDA
& REG. PATENT ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

July 22, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

Mark:



Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

We are writing on behalf of our client Nautica Apparel, Inc. ("Opposer").

I. Majestique Corporation's Discovery Requests:

We are in receipt of your correspondence dated July 7, 2014, where you served your document requests, interrogatories and request for admissions. We regret to inform you that your discovery requests are hereby rejected pursuant to the Board's order dated April 16, 2014. In that order, the Board required parties to re-serve all discovery documents, including initial disclosures. Once again, you neglected to do so. This is not the first time we had to advise you to serve the initial disclosures. Therefore, pursuant to *TBMP* §403, 406, we are returning herein the requests you submitted, as being rejected in their entireties.

II. Nautica's First set Interrogatories and document requests and requests for admissions:

Pursuant to Board's order dated April 16, 2014, Opposer has served its discovery requests, namely: Initial disclosures, Request for admissions, First set of Interrogatories and Document requests on April 17, 2014. To date, we have only received your client's responses to Nautica's First set of Interrogatories and Document requests. Your careless approach of copying and pasting the exact same responses to interrogatories and document requests, resulted in your failure to timely serve responses to our requests for admissions. You may recall that we have previously contacted you many times regarding your failure to respond (see my letters dated May 28 and June 18, 2014). At this point, your lack of response has caused Opposer's request for admissions to be deemed admitted.

As for Applicant's responses to Opposer's First set of Interrogatories and Document requests served on July 7, they appear to be identical to the responses previously served on February 20, 2014. You may recall in my letter dated May 28, 2014, we strongly cautioned you that a mere re-service of your incomplete responses previously provided will not be satisfactory. Unfortunately, your actions demonstrated that you have completely ignored our good faith advise. The response received appears to be grossly inadequate and tantamount to a failure to provide discovery. This letter shall serve as our last good faith effort to avoid a discovery dispute. Additionally, your client ("Applicant") has also failed to provide signed and sworn copies of its responses to the interrogatories as required by FRCP§ 33. In the event Applicant does not immediately provide us with signed, sworn, revised and supplemental responses, we intend to move to compel discovery and for sanctions. Rule 37(a) provides that if a party fails to make a disclosure in discovery, or provides an evasive or incomplete disclosure, answer, or response, the other party may move to compel disclosure and for appropriate sanctions.

Furthermore, Applicant's response contained numerous objections alleging business secrets. Applicant must be aware that for proceedings pending or commenced on or after August 31, 2007, the Board's standard protective order is automatically in place to govern the exchange of information unless the parties, by stipulation approved by the Board, agree to an alternative order, or a motion by a party to use an alternative order is granted by the Board. On December 23, 2013, during our discovery conference, you never objected to use of the Board's protective order. Lastly, Applicant has also objected to numerous requests alleging that such requests are irrelevant to the

proceedings when Opposer's requests directly refer to the DuPont factors that will be considered by the TTAB during this proceeding or are otherwise calculated to lead to discoverable information. Examples are as follows:

Opposer's First Set of Interrogatories:

Interrogatory No. 3:

Applicant was asked to identify each person who was responsible for or who participated in the conception, selection, or adoption of Applicant's Mark. Applicant responded by identifying Majestique Corporation and its President Mr. Moises Zebede. Applicant has failed to provide the information Opposer seeks. Opposer was asking Applicant to identify "each and every person" who participated in the conception, selection, or adoption of Applicant's Mark. Although Applicant identified Moise Zebede, it has failed to identify "each and every" member of the Corporation who was involved in conception, selection, or adoption of the mark. Note that *TBMP 414* clearly indicated that information concerning a party's selection and adoption of its involved mark is generally discoverable. Such information is relevant because it may help identify reasonable number of those most knowledgeable of adoption, selection or day-to-day uses of mark and it may lead to relevant information concerning circumstances surrounding selection of mark, distinctiveness of mark. As such, we require a complete answer.

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Applicant was asked to identify each person who assisted, advised or otherwise participated in conduction trademark search or any other search for the Applicant's Mark prior to Applicant's filing of its trademark application. Applicant responded by identifying "Our Attorney". Applicant has failed to provide the information Opposer seeks. Opposer was asking Applicant to identify "each and every person" who participated in the conception, selection, or adoption of Applicant's Mark. Although Applicant identified "Our Attorney", it has failed to identify the specific identification of this person or persons. To the extent this person is an in-house attorney, please provide his or her name and full title description at Majestique Corporation. If this person is an outside counsel, please identify his or her name and affiliated law firm, as well as the identification of the Officer at Majestique Corporation that the counsel reports to.

Interrogatory No. 6:

Applicant was asked to describe each product that has been, is being, or will be sold or offered for sale using Applicant's mark in the United States. Applicant again did not answer the question completely. Here, Applicant responded by stating : "Class 25", however such response did not provide with specificity as to what type of goods under class 025 has been, is being, or will be sold or offered for sale using Applicant's mark.

Pursuant to Federal Rule 33(b), each interrogatory must, to the extent it is not objected to, be answered separately and fully. As such, we demand a complete answer.

Interrogatory No. 7:

Applicant was asked to identify each person who is presently, has been, or will be responsible for the sales and/or distribution of each product offered for sale, sold or distributed by Applicant using Applicant's mark in the United States. Applicant responded by identifying Majestique Corporation. Applicant has failed to provide the information Opposer seeks. Opposer was asking Applicant to identify each and every person, in any time period known by Applicant, who is presently, has been, or will be principally responsible for the sales and/or distribution of each product offered for sale, sold or distributed by Applicant using Applicant's mark. As such, Applicant must clearly identify the name of any officer or member of the company who is responsible for sales and distribution of the product in the United States bearing Applicant's mark. Pursuant to *TBMP 405.02*, such request is within the scope allowed by TTAB. This objective information is required so that Applicant may assess which witness(es) it intends to notify for depositions during these proceedings. We therefore require a complete answer.

Interrogatory No. 8:

Applicant was asked series of questions to amplify information concerning each product described in Interrogatory No. 6. Applicant's answer appears to be incomplete. Pursuant to Federal Rule 33(b), Each interrogatory must, to the extent it is not objected to, be answered separately and fully. As such, we demand a complete answer.

Interrogatory No. 9:

The response provided by Applicant appears to be vague and ambiguous. The Interrogatory aimed to discover whether the mark has been mentioned by any trade publications. However, Applicant's response, which simply stated "No.", did not provide a clearly answer. In fact, such response is puzzling to Opposer as it has more than one meaning. Therefore Applicant must clarify whether Applicant's mark upon goods has been made known by trade publication or Applicant simply refuses to provide such information.

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Applicant was asked to set forth the retail prices for each product identified in response to Interrogatory No. 6. Applicant's answer appears to be incomplete. Applicant responded to Interrogatory No. 6 by stating : "Class 25", however such response did not provide with specificity as to what type of goods under class 025 has been, is being, or will be sold or offered for sale using Applicant's mark. Here, Applicant only identified price for each Polo is 35, no other goods were disclosed. Pursuant to Federal Rule 33(b), each

interrogatory must, to the extent it is not objected to, be answered separately and fully. As such, we demand a complete answer.

Interrogatory No. 16:

Applicant was asked to identify the name and address of the business establishments in the United states which are accessible to the public, where each itemed identified in the Interrogatory No. 6 were sold and currently on sale. Applicant refused to answer citing such information is a business secret. Once again, the protective order is in place. The information sought by Oppsoer is highly relevant to the issue on likelihood of confusion and it is also an important element of the DuPont factors. We demand a complete answer.

Interrogatory No. 19, 20:

Applicant was asked to state the annual dollar and unit volume of sales and advertising figures in the United states separately for each product identified in response to Interrogatory No. 6 from Applicant's first use of Applicant's mark to present. Applicant refused to answer citing such information is a business secret. Such response is non-responsive and insufficient pursuant to *TBMP 414*. The rule clearly indicates that Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery. Again the protective order is in place. Further, if Applicant indeed maintains sales information in the ordinary course of business, and it is required for "IRS" purpose in the United States, providing a summary of such should not be difficult. Opposer is entitled to a summary of sales for the goods bearing the mark in question and require that Applicant provide its response.

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Applicant was asked to describe in detail all instances or incidents of a actual confusion between any of Applicant's products and the products of Opposer. Applicant responded by stating the marks are completely different and how there can be no confusion. Such response was non-responsive and insufficient as Applicant did not address the question directly. This information is extremely relevant to the issue of confusion. We require a complete answer or an alternative statement that no such incident exists.

Interrogatory No. 24:

Applicant was asked to identify each publication or item of advertising or item of advertising or promotional material in which applicant has advertised or promoted or will advertise or promote each product identified in Interrogatory No. 6., including date of such publication and intended target customers. Applicant responded by stating no such item exists. It appears Applicant's response was disingenuous at best and seriously contradicted with its responses to Opposer's other Interrogatories, namely No.6, No.10

and 15. In Interrogatory No.10, Applicant responded by stating that the product has been advertised in shoppers in Puerto Rico. To the extent Applicant was referring to items other than clothing, as identified in its response to Opposer's first set of Interrogatory No.6, we then require Applicant to provide an amended answer to name additional goods previously not identified.

Interrogatory No. 28:

Applicant was asked to identify all Applicant's importers, distributors, manufacturers and suppliers of each product identified in response to Interrogatory No.6. Applicant responded by making a blanket objection and stating that such information is irrelevant and business secret. Once again, there is a protective order in place. Such information is certainly relevant as it helps for us to identify all parties involved in the subject matter and any instances of confusion or similarity of trade channels. As for issues on such information being a business secrets, Applicant must be aware that the Board's standard protective order is already in place to govern the exchange of information. As such, we demand a complete answer.

First Requests For Production and Things

No. 4, 5:

Applicant was asked to provide date of first use of the mark on each of the goods identified by Applicant and a specimen of each product, including the packaging for each product, identified in response to Interrogatory No. 6 that has been, is being, or will be sold or offered sale using Applicant's mark. Applicant responded by referring to its trademark application. Applicant identified only one product--Polo. It shouldn't be difficult to produce label or packaging materials for a single product, as any business will have records of such. Surely Opposer does not need to remind Applicant that under *TBMP 408.1*, The Board expects parties (and their attorneys or other authorized representatives) to cooperate with one another in the discovery process, and looks with extreme disfavor on those who do not. Further, Applicant's request is entirely proper as it is relevant to the issue of first use. As such, Applicant requires that such documents to be produced.

No. 14:

Applicant was asked to produce all documents, from the time Applicant began using Applicant's mark until the present, concerning the gross income derived from the sale of products bearing Applicant's mark in the United States. No documents were provided. *TBMP 414* clearly indicates that "Information concerning a party's first use of its involved mark is discoverable". Opposer requires that Applicant produce the information sought in Request No. 14. As for issues on such information being a business secrets, Applicant must be aware that the Board's standard protective order is already in place to

govern the exchange of information. Further, if Applicant indeed maintains sales information in the ordinary course of business, and it is required for "IRS" purpose in the United States, providing such information should not be difficult. As such, we demand such documents to be produced.

No. 15, 16, 17:

Applicant was asked to produce sales records derived from products offered for sale or sold using Applicant's mark in the United States. Applicant's response to No.17 clearly indicated that sales records exists, however, Applicant's inconsistent statement in No. 15 and 16 demonstrates an uncooperative attitude, suggests that Applicant's response is no more than a tactic to delay the proceeding. Furthermore, *TBMP 414* clearly indicates that Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery. As such, Opposer requires that such documents be produced.

No. 18, 19:

Applicant was asked to produce all documents concerning the geographic areas in which Applicant's goods featuring Applicant's mark are offered for sale or sold, or intended to be offered for sale or sold in the United States. No responsive documents were produced. The requests in No. 18 and 19 are highly relevant to the issue on likelihood of confusion and it is also an important element of the DuPont factors. We require that such documents be produced by Applicant.

No. 20, 24:

Please clarify the response to No. 20 and No. 24 as Applicant's response to No. 20 clearly contradicts the response provided in No.24.

No. 21:

No responsive document were produced. Further, Applicant stated "N/A" as the only response for such request. Kindly advise whether such document exists or simply confirm that it does not exist.

No. 22:

Applicant was asked to produce all documents concerning purchaser of the goods, sold or to be sold under Applicant's mark. No document was produced. Applicant further objects to the request, stating that such information is irrelevant and is a business secret. We disagree. First, such information is relevant to the issue of use, abandonment and channels of trade, which is clearly within the scope of discovery under *TBMP 406.02 and 402.02*. Second, Applicant must be aware that the Board's standard protective order is already in place to govern the exchange of information. Third, Applicant's response to Opposer's document request No. 13 clearly shows that Applicant knew exactly what

Applicant is seeking, because a wholesaler by definition, is a merchant selling goods in relatively large quantities, such as selling to retailers for resale to consumers. As such, Applicant's response is non-responsive and disingenuous at best as Applicant must know who buys its products. We therefore require that such information be produced or made available for copying and inspection.

We look forward to your complete, revised and newly issued responses to our client's request for documents and interrogatories by no later than July 29, 2014. This letter shall serve as our good faith attempt to resolve a potential discovery dispute. Absent your cooperation, we will proceed with a motion to compel.

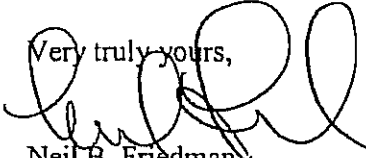
Very truly yours,

Neil B. Friedman

Exhibit V.

P. Chang

From: P. Chang
Sent: Thursday, October 02, 2014 5:05 PM
To: 'ginonegretti@gmail.com'
Cc: K. Hnasko; Neil Friedman
Subject: Opposition No. 91212653
Attachments: 10.2.2014 letter.pdf

Importance: High

Tracking:

Recipient
'ginonegretti@gmail.com'
K. Hnasko
Neil Friedman

Delivery

Delivered: 10/2/2014 5:03 PM

Delivered: 10/2/2014 5:03 PM

Dear Mr. Negretti:

On behalf of Neil Friedman, please see attached letter.

Best Regards,

Mr. Pei-Lun Chang, Esq.

張培倫



Baker and Rannells, PA
575 Route 28, Suite 102
Raritan, NJ 08869
Telephone: (908) 722-5640 ext 117
Facsimile: (908) 725-7088
E-mail: p.chang@br-tmlaw.com
www.tmlawworldwide.com

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BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

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JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
RYAN A. MCGONIGLE ♦

JASON L. DEFRADESCO*
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+NEW JERSEY
* WASHINGTON, DC & FLORIDA
& REG. PATENT ATTORNEY


PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

October 2, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

Mark: 
Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

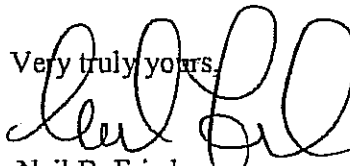
We are writing on behalf of our client Nautica Apparel, Inc. ("Nautica")

On July 22, 2014, we sent you a letter regarding issues related to your discovery requests, as well as the deficiencies related to your response to Nautica's Discovery requests. A copy of the letter is attached herewith for your reference. You will recall that in that letter, we rejected and returned your discovery requests due to your failure to comply with initial disclosure requirements set forth in 37 CFR 2.120. You also never provided Nautica with a signed and sworn statement from your client in response to Nautica's First set of Interrogatories. Lastly, as advised in our July 22, 2014 letter, your responses to Nautica's discovery requests were deficient and the fact that you merely reserved the exact same responses served prior to the Board's April 16 order shows that you made no effort to remedy the deficiencies of your responses previously discussed in my May 28, 2014 letter.

It would appear that you have completely ignored our letter. To date, we have not received the courtesy of your reply. This email shall serve as our final good faith effort

to avoid a discovery dispute regarding your failure to comply with discovery. Please call to arrange a conference to discuss the matter. If we do not hear from you, we will assume that you have no interest in resolving this matter.

In the event that we do not receive your responses without objection by the close of business on October 9 , 2014, we will proceed with a motion to compel and request for sanctions.

Very truly yours,

Neil B. Friedman

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
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EMAIL: N.FRIEDMAN@BR-TMLAW.COM

July 22, 2014

VIA FIRST CLASS MAIL

Gino Negretti, Esq.
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17
San Juan, Puerto Rico 00907-3207

Re: Application Serial No. 85883577

Mark: 
Applicant: Majestique Corporation
Opposition No. 91212653

Dear Mr. Negretti:

We are writing on behalf of our client Nautica Apparel, Inc. ("Opposer").

I. Majestique Corporation's Discovery Requests:

We are in receipt of your correspondence dated July 7, 2014, where you served your document requests, interrogatories and request for admissions. We regret to inform you that your discovery requests are hereby rejected pursuant to the Board's order dated April 16, 2014. In that order, the Board required parties to re-serve all discovery documents, including initial disclosures. Once again, you neglected to do so. This is not the first time we had to advise you to serve the initial disclosures. Therefore, pursuant to *TBMP* §403, 406, we are returning herein the requests you submitted, as being rejected in their entireties.

II. Nautica's First set Interrogatories and document requests and requests for admissions:

Pursuant to Board's order dated April 16, 2014, Opposer has served its discovery requests, namely: Initial disclosures, Request for admissions, First set of Interrogatories and Document requests on April 17, 2014. To date, we have only received your client's responses to Nautica's First set of Interrogatories and Document requests. Your careless approach of copying and pasting the exact same responses to interrogatories and document requests, resulted in your failure to timely serve responses to our requests for admissions. You may recall that we have previously contacted you many times regarding your failure to respond (see my letters dated May 28 and June 18, 2014). At this point, your lack of response has caused Opposer's request for admissions to be deemed admitted.

As for Applicant's responses to Opposer's First set of Interrogatories and Document requests served on July 7, they appear to be identical to the responses previously served on February 20, 2014. You may recall in my letter dated May 28, 2014, we strongly cautioned you that a mere re-service of your incomplete responses previously provided will not be satisfactory. Unfortunately, your actions demonstrated that you have completely ignored our good faith advise. The response received appears to be grossly inadequate and tantamount to a failure to provide discovery. This letter shall serve as our last good faith effort to avoid a discovery dispute. Additionally, your client ("Applicant") has also failed to provide signed and sworn copies of its responses to the interrogatories as required by FRCP§ 33. In the event Applicant does not immediately provide us with signed, sworn, revised and supplemental responses, we intend to move to compel discovery and for sanctions. Rule 37(a) provides that if a party fails to make a disclosure in discovery, or provides an evasive or incomplete disclosure, answer, or response, the other party may move to compel disclosure and for appropriate sanctions.

Furthermore, Applicant's response contained numerous objections alleging business secrets. Applicant must be aware that for proceedings pending or commenced on or after August 31, 2007, the Board's standard protective order is automatically in place to govern the exchange of information unless the parties, by stipulation approved by the Board, agree to an alternative order, or a motion by a party to use an alternative order is granted by the Board. On December 23, 2013, during our discovery conference, you never objected to use of the Board's protective order. Lastly, Applicant has also objected to numerous requests alleging that such requests are irrelevant to the

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Applicant was asked to provide date of first use of the mark on each of the goods identified by Applicant and a specimen of each product, including the packaging for each product, identified in response to Interrogatory No. 6 that has been, is being, or will be sold or offered sale using Applicant's mark. Applicant responded by referring to its trademark application. Applicant identified only one product--Polo. It shouldn't be difficult to produce label or packaging materials for a single product, as any business will have records of such. Surely Opposer does not need to remind Applicant that under *TBMP 408.1*, The Board expects parties (and their attorneys or other authorized representatives) to cooperate with one another in the discovery process, and looks with extreme disfavor on those who do not. Further, Applicant's request is entirely proper as it is relevant to the issue of first use. As such, Applicant requires that such documents to be produced.

No. 14:

Applicant was asked to produce all documents, from the time Applicant began using Applicant's mark until the present, concerning the gross income derived from the sale of products bearing Applicant's mark in the United States. No documents were provided. *TBMP 414* clearly indicates that "Information concerning a party's first use of its involved mark is discoverable". Opposer requires that Applicant produce the information sought in Request No. 14. As for issues on such information being a business secrets, Applicant must be aware that the Board's standard protective order is already in place to

govern the exchange of information. Further, if Applicant indeed maintains sales information in the ordinary course of business, and it is required for "IRS" purpose in the United States, providing such information should not be difficult. As such, we demand such documents to be produced.

No. 15, 16, 17:

Applicant was asked to produce sales records derived from products offered for sale or sold using Applicant's mark in the United States. Applicant's response to No.17 clearly indicated that sales records exists, however, Applicant's inconsistent statement in No. 15 and 16 demonstrates an uncooperative attitude, suggests that Applicant's response is no more than a tactic to delay the proceeding. Furthermore, *TBMP 414* clearly indicates that Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery. As such, Opposer requires that such documents be produced.

No. 18, 19:

Applicant was asked to produce all documents concerning the geographic areas in which Applicant's goods featuring Applicant's mark are offered for sale or sold, or intended to be offered for sale or sold in the United States. No responsive documents were produced. The requests in No. 18 and 19 are highly relevant to the issue on likelihood of confusion and it is also an important element of the DuPont factors. We require that such documents be produced by Applicant.

No. 20, 24:

Please clarify the response to No. 20 and No. 24 as Applicant's response to No. 20 clearly contradicts the response provided in No.24.

No. 21:

No responsive document were produced. Further, Applicant stated "N/A" as the only response for such request. Kindly advise whether such document exists or simply confirm that it does not exist.

No. 22:

Applicant was asked to produce all documents concerning purchaser of the goods, sold or to be sold under Applicant's mark. No document was produced. Applicant further objects to the request, stating that such information is irrelevant and is a business secret. We disagree. First, such information is relevant to the issue of use, abandonment and channels of trade, which is clearly within the scope of discovery under *TBMP 406.02 and 402.02*. Second, Applicant must be aware that the Board's standard protective order is already in place to govern the exchange of information. Third, Applicant's response to Opposer's document request No. 13 clearly shows that Applicant knew exactly what

Applicant is seeking, because a wholesaler by definition, is a merchant selling goods in relatively large quantities, such as selling to retailers for resale to consumers. As such, Applicant's response is non-responsive and disingenuous at best as Applicant must know who buys its products. We therefore require that such information be produced or made available for copying and inspection.

We look forward to your complete, revised and newly issued responses to our client's request for documents and interrogatories by no later than July 29, 2014. This letter shall serve as our good faith attempt to resolve a potential discovery dispute. Absent your cooperation, we will proceed with a motion to compel.

Very truly yours,


Neil B. Friedman